

IN THE UNITED STATES DISTRICT COURTS
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JUN 21 2021

Roy Earl Brown
Plaintiff.,

VS.

Bryan Collier, et al.,
Defendants

Nathan Ochsner, Clerk of Court

Civil Action No.4:20-cv-04078

Memorandum Of Law and Support of Order To Show Cause For An
Preliminary Injunction & A Temporary Restraining Order

TO THE HONORABLE JUDGE OF SAID COURT:

Now Comes Plaintiff, Roy Earl Brown, in the above Civil Action and Case no., Files this Memorandum Of Law In Support Of His Order To Show Cause For An Preliminary Injunction and Temporary Restraining Order. Under Rule 65(a) of the Federal Rule Of Civil Procedure and the following in support thereof:

I. Jurisdiction & Venue

1. Plaintiff claims for Injunctive relief are authorized by 28 U.S.C. Section 2283 & 2284 and Rule 65 of the Federal Rules of Civil Procedure. The Court has jurisdiction Under 28 U.S.C. Section 1331 & 1334(a)(3). For this is where Plaintiff Original claim for Civil Action Docket No.4:20-cv-04078 was filed and already have an assigned Magistrate Judge: Gray H. Miller

2. The U.S. District Court for the Southern District of Texas (Houston Division). Is an appropriate venue Under 28 U.S.C. Section 1391(b)(2) to issue ORDERS giving rise to any events occurred Supplementally out of this claim.

II. Plaintiffs

3. Plaintiff, Roy Earl Brown, is and was at all times mentioned herein a prisoner of the state of Texas in custody of (TDCJ) currently confined in the Berry Telford Unit, at 3899 State Hwy. 98., New Boston, Texas 75570..

III. Defendants

4. Defendant Bryan Collier: Executive Director of TDCJ, et al., is the Director of Texas Dept. of Crim. Justice Institutional Div. He is legally responsible for the overall operation of the Dept. and each institution Under his Jurisdiction, including the Berry Telford Unit

5. Defendant, Senior Warden: Micheal P. Britt is the Warden of the Berry Telford Unit. He is legally responsible for the operation of Berry Telford Unit and for the welfare of all inmates in the prison

IV. Facts

6. Since May 20th, 2021 12 Bldg. Unit Ranking Officials and Unit Correctional officers Breached Security Protocols And Violated clearly established policies and procedures by telling and showing thier SSI'S the complete Classified security details of my Files. In which placed my Life Endanger.

By subjecting me to Deliberate Indifferent Standards, Harassment, Retaliation, Cruel and Unusual Punishment, Libel, Slander, Defamation of Character and Caused or Showed a Reckless Disregard to a serious Health and Safety Risk. That placed my Health and Life in "Actual" or "Imminent Injury". I will continue to suffer immediate and irreparable injury and Danger if the courts don't issue these ORDERS TO SHOW CAUSE FOR AN PRELIMINARY INJUNCTION and TEMPORARY RESTRAINING ORDER. SEE: Lewis V. Casey, 518 U.S. 343.

7. SEE: Attached Affidavit. Which show these conditions have continued since my first "OPI" claim's in September or October of "2014". And only worsened and got more serious and immediate since the claims now have unit "Gangs" with a "Contracted Hit" out on this Unit and Most likely throughout the system. Since prison officials have Breached Protocols and allowed Gangmembers to get copies of my "OPI" FILES and send copies of them to other Gangmembers. Violating my 8th and 14th Amendment Rights Under Equal Protection of the law. Under 28 & 42 U.S.C. & 1983 Civil claim for violation of my 8th and 14th U.S. Constitution's.

8. The Breaching of these Highly Classified Documents, i.e., "OPI" ("OFFENDER PROTECTION INVESTIGATION") claims have caused and help prison Gangmembers, Correctional Officers and RANKING OFFICIALS Conspire to label me a "Catch OUT" and "SNITCH". In Bistrain V. Levi, 696 F.3d 352, 371 (3d Cir. 2012) (8th Amendment) claim stated where officials Deliberate Indifferent to risk posed by inmates in prison with others who know or knew his status as "INFORMANT". Under this standard, prison officials may be found liable for denying humane conditions of confinement if they know or knew an inmate face a substantial risk of serious harm and disregard that risk by failing to take measures to abate it. See: Giroux V. Somersset Cty., 178 F.3d 28, 34 (1st Cir. 1999). Also See: Hamilton V. Leavy, 117 F.3d 742, 747 (3d Cir. 1997). "8th Amendment claim stated because prisoner had history of violent acts against him, was subsequently labeled "SNITCH", prison officials failed to take additional steps.

V. EXHAUSTION OF LEGAL REMEDIES

9. Plaintiff, ROY EARL BROWN used the prisoner grievance procedure available at the Berry Telford Unit to try and resolve and report this violation. SEE: Step 1 Grievance No. 2021116890 Filed June 1st, 2021 and returned June 6, 2021. Signed by Senior Warden: Micheal P. Britt. STATING THAT, "KNOW CLaim has been reported at this time and know need to file an "OPI" INVESTIGATION". STEP 2 yet to be filed as of JUNE 13, 21. IN which he will submit June 14, 2021. ON Rounds to Unit Grievance Coordinator: MS. RACHEL H. Smalling. However need this ORDRE TO SHOW CAUSE FOR AN PRELIMINARY INJUNCTION & Temporary Restraining Order. See; Jackson V. District of Columbia, 254 F3d 262 (D.C. Cir. 20010). That case states that the court can protect prisoners with this until Exhaust Grievance procedures. If they have and have shown that irreparable harm that may cause permanent injury or damage may occur. Eample: My Constitutional Rights continue to be Violated.

VI. LEGAL CLAIMS

10. Plaintiff reallege and incorporate by reference paragraphs 1-9

11. The State violation was prohibited by the 8th and 14th Amendment Rights of the U.S. Constitutions. PURSUANT to 28 & 42 U.S.C. & 1983 Civil ACTIONS. That protect him from Due Process Rigfts Under Equal Protection of the Law.

12. The Plaintiff has no plain, adequate or complete remedy at law to redress the wrongs described herein. Plaintiff has been and will continue to be irreparably injured by the conduct of the defendants unless this court

grant the ORDERS For Priliminary Injunction and "TRO" RELIEF which plaintiff seeks.

13. Plaintiff plains to file a Suppleymmentally Complaint Enjoining this or the claim already filed for deliberate indifferent standards and Cruel And UNUSUAL PUNISHMENT.

VII.Ehibits #A-

14. A. Affidavit Filed by me with the Bowie County Court Clerk 6/14/2021.To:Courthouse 710 James Bowie Dr.,New Boston,Texas 75570.

15. B. Declaration to state in detail exactly what "IMMEDIATE and IRR-reparable injury loss or damage if the court don,t sign these ORDERS,Stating that a copy of these pleading will be hand delivered by Grievance coordinator Rachel H.Smalling or placed in the unit TruckMail system by the time it reach the courts.Declaring Unit Warden.Micheal P. Britt did get served a copy

16. C. Recent Docket Sheet show he proceed in forma pauperis,pro se, and received service from the Clerk who filed in The U.S. District Court for The Southern District of Texas (Houston Division) Civil Action No.4:20-cv-04078 and A recent Amended Complaint.In which the District Clerk for this County:mr.David J. Bradley and PRESIDING Magistrate Judge:Gray H.MILLER IS assigned.

VIII.PRAYER FOR RELIEF

WHEREFORE,PLAINTIFF respectfully prays that this court enter judgment granting plaintiff:

17. A preliminary and Temporary Restraining Order to Show CAUSE injunctions ordering the defendants aforesaid thereto and therewith said Civil Rights Violation'S of his U.S.Constitutions.TO Stop:1.Violating Security Protocols and rights by discussing the Classified Documents of all the "OPI"(Offender Protection Investigation) claims he have filed since he beenincarcerated in (TDCJ) with Unit Gangmembers and Placing my Life in even more irreparable Harm and danger.

18. Any additional relief this court deems just,proper,and equitable.

EXECUTED ON this 14th day of June,2021.

Respectfully Submitted,

S/
 ROY EARL BROWN #776465
 Telford Unit
 3899 State Hwy.98.
 New Boston,Texas 75570

VERIFICATION

I have read the foregoing complaint and herby verify that the matters alleged therein are true and correct,except as to matters alleged on information and belief,and,as to those,i believe to be true.I certify under penalty of perjury that the foregoing is true and correct.

EXECUTED ON this 14th day of June, 2021.

Respectfully Submitted

S/ Roy Earl Brown
ROY EARL BROWN #776465
Telford Unit
3899 Stste Hwy.98.
New Boston, Texas 75570

DECLARATION

I, ROY EARL BROWN, #776465, am presently incarcerated at Berry Telford Unit in Bowie County, Texas, at 3899 State Hwy. 98. New Boston, Texas 75570. Hereby swear attest and declare under penalty of perjury that the foregoing statements are true and correct, stated in this Memorandum of Law in Support of ORDER TO SHOW CAUSE FOR AN PRELIMINARY INJUNCTION & Temporary Restraining Order was: 1. Serviced on unit Senior Warden: Micheal P. Britt, 2. Stated exactly what "immediate AND irreparable injury, lost or damage will result" if the court does not sign these pleadings, Pursuant to Title 28 U.S.C. & 1746. EXECUTED on this 14th day of June, 2021.

Respectfully Submitted,

S/ Roy Earl Brown
ROY EARL BROWN #776465
Telford Unit
3899 State Hwy.98.
New Boston, Texas 75570

**U.S. District Court
SOUTHERN DISTRICT OF TEXAS (Houston)
CIVIL DOCKET FOR CASE #: 4:20-cv-04078
Internal Use Only**

Brown v. Collier et al
Assigned to: Judge Gray H Miller
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 11/23/2020
Jury Demand: None
Nature of Suit: 550 Prisoner: Civil Rights
Jurisdiction: Federal Question

Plaintiff

Roy Earl Brown

represented by **Roy Earl Brown**
776465
Telford Unit
3899 State Hwy 98
New Boston, Tx 75570
PRO SE

V.

Defendant

Executive Director Brian Collier

Defendant

Warden Daniel D. Dickerson

Defendant

Warden Timothy R. Fitzpatrick

Defendant

Major Caler M. Brumley

Defendant

Captain John M. Hastings

Defendant

Captain Anita L. Anderson

Defendant

Lieutenant Brenda R. Phillips

Defendant

Lieutenant Nicholas A. Ferguson

Defendant

Soloman T. Oddi

Defendant

Sgt. Vandell Dawson

Defendant

Skylar A. Dolphin

Defendant

Sgt. Raul G. Cisneros

Defendant

Seargent Benson

Defendant

Sergeant Forrest H. Goodman

Defendant

Sergeant Jesus F. Sequi

Defendant

UCC Chairperson M. Adonis

Defendant

UTMB Medical Services

Defendant

RN Monica D. Flewelling

Defendant

RN Kelly

Defendant

Psychologist Werner

Defendant

Psychologist Myers


Defendant

Mrs. Williams

Defendant

Mrs. Villernez

Date Filed	#	Docket Text
11/23/2020	<u>1</u>	Prisoner Civil Rights COMPLAINT against All Defendants (Filing fee \$ 402) filed by Roy Earl Brown. (Attachments: # <u>1</u> Envelope, # <u>2</u> Affidavit, # <u>3</u> Request For Service, # <u>4</u> Proposed Order)(ChristopherSarrat, 4) (Entered: 12/01/2020)
11/23/2020	<u>2</u>	MOTION/APPLICATION to Proceed In Forma Pauperis by Roy Earl Brown, filed. Motion Docket Date 12/14/2020. (ChristopherSarrat, 4) (Entered: 12/01/2020)
12/01/2020	<u>3</u>	NOTICE to Pro Se Litigant of Case Opening. Party notified, filed. (ChristopherSarrat, 4) (Entered: 12/01/2020)

12/28/2020	<u>4</u>	AFFIDAVIT of Roy Earl Brown, filed.(JosephWells, 4) (Entered: 12/29/2020)
02/09/2021	<u>5</u>	ORDER GRANTING <u>2</u> MOTION/APPLICATION to Proceed In Forma Pauperis (Signed by Judge Gray H Miller) Parties notified.(rkonieczny, 4) (Entered: 02/09/2021)
02/09/2021		(Court only) Document Sent by regular mail to TDCJ - Office of the General Counsel, Austin TX re: <u>5</u> Order, filed. (jdav, 4) (Entered: 02/09/2021)
04/26/2021	<u>6</u>	MOTION for Leave to File an Amended Complaint by Roy Earl Brown, filed. Motion Docket Date 5/17/2021. (JosephWells, 4) (Entered: 04/26/2021)

United States Courts
Southern District of Texas
FILEDDistrict Clerk: David J. Bradley
P.O. BOX 61010
Houston, Texas 77208

JUN 21 2021

TO THE CLERK: RE: Find enclosed the following pleadings: ^{Nathan Ochsner, Clerk of Court}

1. ORDER TO SHOW CAUSE FOR AN PRELIMINARY INJUNCTION & A TEMPORARY RESTRAINING ORDER WITH MEMORANDUM OF LAW TO SUPPORT. Pursuant to Rule 5(a) of THE FEDERAL RULE OF CIVIL PROCEDURE, and;

2. A Affidavit made by me and sent to the Bowie County Clerk Office w/ Certification under the penalty of perjury to declare it as a LEGAL Document.

Please file them with the District Judge in Civil Action NO. 4:20-cv-04078 it is assigned to: Magistrate Judge: Gray H. MILLER for processing for the requested issuing Order's. I am Exhausting my Administrative Remedies and will file a supplemental Complaint and join this Civil Rights violation later as a part of my Original Claim. For the Constitutional violation accord as a result of this Civil Claim. I further request that you return to me a file marked copy of these pleadings and letter for my records. To facilitate this request find enclosed also a SASE for your convenience. Your assistance will be greatly appreciated.

Sincerely Requested,

s/ Roy Earl Brown
ROY EARL BROWN #776465

P.S. Enclosed is 1. Original Copy and 2. Carbon copies of ORDER to SHOW CAUSE FOR PRELIMINARY INJUNCTION AND TEMPORARY RESTRAINING order, with 1. COPY OF MEMORANDUM OF LAW TO SUPPORT, 1. Original and 1. Carbon Copy of Affidavit filed with Bowie County Clerk And complete Docket Sheet from The U.S. District Court for THE Southern District Of TEXAS (Houston Division) from this Court that Show all the already filed pleadings in this Court for mentioned Civil ACTION DOCKET NO. 4:20-cv-04078. Please date and return a COPY of each stamped for my personal records. I copy Machine is unavailable to me because of my incarceration and i am a pro se litigator.

Thank you & May God Bless "U"

ROY EARL BROWN #77646E
TELFORD UNIT
3899 STATE HWY 98
NEW BOSTON, TEXAS 75570

Dis

HC

LEGAL MAIL !!!

MAILED: 6-15-21